

APPEAL NO. 020180
FILED MARCH 13, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 12, 2001. With respect to the issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable injury on or about _____; that the claimant timely notified her employer of the injury; and that the claimant had disability from May 25, 2001, through the date of the hearing. The appellant (carrier) appeals, contending that there was insufficient evidence to support the determinations of the hearing officer. The appeals file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The claimant testified that she worked as a family support training consultant for the employer and that her job duties required extensive travel. She further testified that on _____, she injured her lower back and both of her knees when she slipped and fell while removing training materials from her car at a school where she was to provide training. The records reflect that the claimant had surgery to her left knee on May 25, 2001, and, further, that a second surgical procedure has been recommended.

The carrier contends that while there is evidence the claimant reported an incident to her supervisor, she did not relate the incident to an injury until after she was terminated on May 4, 2001. The carrier also argues that the claimant did not sustain an injury, and alternatively, if an injury is found, that it did not extend to all of the body parts found by the hearing officer. Conflicting evidence was presented on these issues. Both the question of whether an injury occurred and whether notice was given are questions of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93761, decided October 4, 1993; Texas Workers' Compensation Commission Appeal No. 93854, decided November 9, 1993; Texas Workers' Compensation Commission Appeal No. 93449, decided July 21, 1993. The hearing officer found the claimant's testimony of the incident credible and that it was corroborated by the witness statements. The hearing officer additionally found the claimant's testimony regarding notice credible.

In challenging the hearing officer's disability determination, the carrier argues that the claimant continued working for the employer until she was terminated and that her testimony during the hearing that she applied for work after her first surgery suggests that her disability concluded. We have previously noted that termination does not necessarily preclude a finding of disability. Texas Workers' Compensation Commission Appeal No. 001637, decided August 29, 2000. While the claimant did testify that she searched for work about five weeks after her first surgery, she also testified, and the medical records support, that her condition improved initially and then deteriorated. The questions of

whether the claimant had disability and the period of any such disability are questions of fact for the hearing officer. Generally, disability may be established by the claimant's testimony alone, if it is credited by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989).

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. The evidence was sufficient to support the challenged determinations of the hearing officer and they are not so against the great weight of the evidence as to compel their reversal on appeal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge